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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/037,681	10/24/2001	Mark E. Toth	20404/301	8295

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EXAMINER

SHERR, CRISTINA O

ART UNIT	PAPER NUMBER
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3621

DATE MAILED: 03/08/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/037,681

Applicant(s)

TOTH, MARK E.

Examiner

Cristina Owen Sherr

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 27 December 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) 4,5,7,14-16 and 19 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-3,6,8-13,17,18 and 20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

1. This communication is in response to applicant's amendment filed December 27, 2005. Claims 1 and 18 have been amended. Claims 4-5, 7, 14-16, and 19 have been canceled. Claims 1-3, 6, 8-13, 17-18 and 20 are pending in this case.

Response to Arguments

2. Applicant's arguments with respect to claims 1-3, 6, 8-13, 17-18 and 20 have been considered but are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1-3, 6, 8-13, 17-18 and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Treyz et al (US 6,526,335) in view of Ekrem (US 2002/0138295).

5. Regarding claim 1 –

Treyz discloses a computer code embodied on a computer readable medium for a customer-centric communication system, comprising: a code segment that provides a user interface that allows a customer to order merchandise; a code segment that provides a virtual server as part of the user interface, for assisting the customer with the user interface without human intervention; a code segment that provides bill payment functionality to allow the customer to pay for the merchandise with cash, a check, credit card, or a gift certificate. (e.g. col 2 ln 1-20).

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6. Treyz does not disclose a virtual server that is an animated figure that emulates human personality traits, wherein the virtual server teaches the restaurant diner how to operate the restaurant communication system, and wherein the virtual server suggestively sells the food and drinks to the restaurant diner. Ekrem, however, discloses just such an animated character. (e.g. par 0006).

7. It would be obvious to one of ordinary skill in the art to combine the teachings of Treyz and Ekrem in order to economize in restaurant service workforce and to make the ordering device more user friendly.

8. Treyz discloses a code segment that provides entertainment services to occupy the attention of a customer (e.g. col 8 ln 20-30).

9. Regarding claim 2 –

Treyz discloses a computer code embodied on a computer readable medium for a communication system wherein the entertainment service is movie information access (e.g. col 2 ln 30-45, any internet connected computer makes this available).

10. Regarding claim 3 –

Treyz discloses a computer code embodied on a computer readable medium wherein the entertainment service is a game (e.g. col 2 ln 30-45, any internet connected computer makes this available).

11. Regarding claim 6 –

Treyz discloses a computer code embodied on a computer readable medium for a communication system further comprising a code segment that allows the customer to

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send Internet e-mail messages (e.g. col 2 ln 30-45, any internet connected computer makes this available).

12. Regarding claim 8 –

Treyz discloses a computer code embodied on a computer readable medium for a customer centric communication system from claim 1, further comprising a code segment that provides a data mining analysis tool for analyzing transactions performed by the communication system (e.g. col 2 ln 30-45, any internet connected computer makes this available).

13. Regarding claim 9 –

Treyz discloses a computer code embodied on a computer readable medium for a customer centric communication system from claim 1, further comprising a code segment that allows the customer to purchase gift certificates (e.g. col 5 ln 30-45, any internet connected computer makes this available).

14. Regarding claim 10 –

Treyz discloses a computer code embodied on a computer readable medium for a customer centric communication system from claim 1, further comprising a code segment that allows the customer to place an order from a remote location via the Internet ((e.g. col 2 ln 30-45, any internet connected computer makes this available).

15. Regarding claim 11 –

Treyz discloses a computer code embodied on a computer readable medium for a customer centric communication system further comprising a code segment that

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manages an incentive program to encourage the customer to order the merchandise (e.g. col 2 ln 30-45, any internet connected computer makes this available).

16. Regarding claim 12 –

Treyz discloses a computer code embodied on a computer readable medium for a customer centric communication system further comprising a code segment that provides integrated human resource capabilities (e.g. col 2 ln 30-45, any internet connected computer makes this available).

17. Regarding claim 13 –

Treyz discloses a computer code embodied on a computer readable medium for a customer centric communication system further comprising a code segment that performs voice recognition and voice synthesis to allow the customer to operate the communication system even if disabled (e.g. col 34 ln 40-55).

18. Regarding claim 17 –

Treyz discloses a computer code embodied on a computer readable medium for a customer centric communication system from claim 1, further comprising a code segment that allows the customer to make a reservation via the Internet (e.g. col 2 ln 30-45, any internet connected computer makes this available).

19. It would be obvious for person of ordinary skill in the art to combine the teachings of Treyz and Ekrem in order to obtain a more efficient restaurant or a store is more economical to run and maintain.

20. Regarding claim 18 –

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Treyz discloses a computer code embodied on a computer readable medium for a customer-centric communication system, comprising: a code segment that provides a user interface that allows a customer to order merchandise; a code segment that provides a virtual server as part of the user interface, for assisting the customer with the user interface; a code segment that provides bill payment functionality to allow the customer to pay for the merchandise; and a code segment that provides entertainment services to occupy the attention of the customer via a computer code embodied on a computer readable medium, as in claim 1 for the choosing and purchasing of merchandise without human intervention (e.g. col 2 ln 1-20).

21. Treyz does not disclose a virtual server that is an animated figure that emulates human personality traits, wherein the virtual server teaches the restaurant diner how to operate the restaurant communication system, and wherein the virtual server suggestively sells the food and drinks to the restaurant diner. Ekrem, however, discloses just such an animated character. (e.g. par 0006).

22. Treyz discloses a code segment that provides entertainment services to occupy the attention of a customer (e.g. col 2 ln 30-45, any internet connected computer makes this available).

23. Regarding claim 20 –

Treyz discloses a computer code embodied on a computer readable medium for a customer centric communication system further comprising a code segment that manages an incentive program to encourage the customer to order the merchandise (e.g. col 22 ln 30-45, any internet connected computer makes this available).

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24. It would be obvious for person of ordinary skill in the art to combine the teachings of Treyz and Ekrem in order to obtain a more efficient restaurant that is more economical to run and maintain.

25. Examiner's note: Examiner has cited particular columns and line numbers in the references as applied to the claims above for the convenience of the applicant. Although the specified citations are representative of the teachings in the art and are applied to the specific limitations within the individual claim, other passages and figures may be applied as well. It is respectfully requested from the applicant, in preparing the responses, to fully consider the references in entirety as potentially teaching all or part of the claimed invention as well as the context of the passage as taught by the prior art or disclosed by the examiner.

Conclusion

26. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

27.. Battistini et al (US 5,907,275A) disclose an order communication system for restaurants.

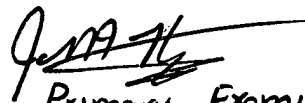
28. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Cristina Owen Sherr whose telephone number is 571-272-6711. The examiner can normally be reached on 8:30-5:00 Monday through Friday.

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29. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James Trammell can be reached on 571-272-6712. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

30. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

COS
03/01/06


Primary Examiner
Au 3621